

**PLACER COUNTY
OFFICE OF EMERGENCY SERVICES**

M E M O R A N D U M

To: Honorable Board of Supervisors

From: Holly L. Heinzen, Interim County Executive Officer
by: Rui Cunha, Assistant Director of Emergency Services

Date: June 19, 2012

Subject: Conduct a public hearing, resolve to form Community Facilities District (CFD) No. 2012-1 *Sunset Industrial Area Services* to fund fire protection and emergency medical services in the Sunset Industrial Area (SIA), and approve a future annexation area.

ACTION REQUESTED

That your Board:

- (1) Conduct a public hearing, consider all protests and tabulate ballots; and
- (2) Adopt a Resolution to form Community Facilities District (CFD) No. 2012-1 *Sunset Industrial Area Services* for funding fire protection and emergency medical services within the Sunset Industrial Area; and
- (3) Impose a special tax for said services in accordance with the Rate and Method (attached); and
- (4) Approve a future annexation area for new discretionary land development projects within the Sunset Industrial Area.

BACKGROUND

At the regular meeting on May 8, 2012 your Board approved a resolution of intention to form a community facilities district in the Sunset Industrial Area (SIA) in order to fund fire protection and emergency medical services. These services are currently being jointly funded by the Thunder Valley Casino and Resort and Placer County.

As stated in that meeting, the amended SIA Area Plan identified use of a Community Facilities District (CFD) as an appropriate funding mechanism to spread the cost of services equitably to *new* development within the SIA. (Current, developed parcels in the SIA are not affected by this action).

A letter from the Assistant Director of Emergency Services, Rui Cunha, was sent to all affected property owners in the SIA future annexation area on May 30, 2012 explaining the CFD establishment process and your Board's intent to establish it today. The letter further offered contact information so that staff could answer any questions from the public in advance of today's Public Hearing.

A property owner of four parcels within the SIA, Magnus Real Estate Group, LLC is desirous of developing its parcels and as such has voted its parcels to be annexed into the CFD. As a result of this vote, the outer edge of its four contiguous parcels establishes the current perimeter of the CFD. The approved ballot and waiver, signed by Magnus Real Estate Group LLC, is attached to the Resolution and included therein by reference. In the future, all other new development (or existing development with a discretionary land development project such as a new map or changed land use type) will be annexed into the CFD as a condition of development.

Once a parcel has been annexed into CFD No. 2012-1, its special tax rate will be determined by the County of Placer Community Facilities District No. 2012-1 (*Sunset Industrial Area Services*) Rate and Method of Apportionment of Special Tax (the "Rate and Method") that is attached to the Resolution and included therein by reference.

FISCAL IMPACT

Approval for formation of CFD No. 2012-1 *Sunset Industrial Area Services*, meets Placer County's General Plan Goals and Policies associated with equitable apportionment of fire protection and emergency medical services costs within the SIA, and will allow for a reduction in the General Fund contribution to the provision of said services over time.

Attachment

Resolution

Before the Board of Supervisors County of Placer, State of California

**IN THE MATTER OF A RESOLUTION TO
FORM COMMUNITY FACILITIES DISTRICT
NO. 2012-1, SUNSET INDUSTRIAL AREA SERVICES**

Resolution No: _____

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held, JUNE 19, 2012, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the County of Placer establishes a Community Facilities District under terms of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Division 2 of Title 5 of the California Government Code, Section 53311 *et seq.*; and

WHEREAS, the name of the Community Facilities District is, "Community Facilities District Number 2012-1 *Sunset Industrial Area Services*", County of Placer, State of California aka "CFD 2012-1", and the boundaries of the district comprise the outer boundary of the four contiguous parcels owned by Magnus Real Estate Group, LLC (Magnus Pacific, APNs: 495-020-005; -006; -007; -008); and

WHEREAS, discretionary land development projects in the Sunset Industrial Area, boundaries of which are as shown at Exhibit B (incorporated herein by reference), are designated for future annexation to CFD 2012-1; and

WHEREAS, the services provided by CFD 2012-1 are fire protection and emergency medical services, and as a condition of approval for future development within CFD 2012-1, a special tax is imposed to provide said services for benefit of properties with CFD 2012-1; and

WHEREAS, Magnus Real Estate Group, LLC, owner of record of the properties within the CFD, have approved, by formal ballot, a tax on its four parcels within the CFD that is based on the engineered rates as shown in Exhibit A (*County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) Rate and Method of Apportionment of Special Tax*) which is incorporated herein by reference; and

WHEREAS, said ballots constitute unanimous approval of the charge to property owners within the CFD.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

That it establishes Community Facilities District 2012-1 Sunset Industrial Area Services to allow for equitable funding by all development within Community Facilities District 2012-1 for fire protection and emergency medical services.

That it annexes the four contiguous parcels owned by Magnus Real Estate Group, LLC referenced above, into the CFD, the outer boundary of which forms the perimeter of the CFD.

That the tax established in Exhibit A shall be subject to modification each year in an amount not to exceed the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/San Jose Metropolitan Area commencing with the 2012 tax year.

That future discretionary land development projects in the Sunset Industrial Area whose boundaries are shown at Exhibit B shall be conditioned for annexation into CFD 2012-1.

Attachments:

Exhibit A: *County of Placer Community Facilities District (CFD) No. 2012-1 (Sunset Industrial Area Services) Rate and Method of Apportionment of Special Tax*

Exhibit B: CFD 2012-1 Map

Exhibit C: Consent and Waiver of Notice

Exhibit D: Official Ballot

**COUNTY OF PLACER
COMMUNITY FACILITIES DISTRICT NO. 2012-1
(SUNSET INDUSTRIAL AREA SERVICES)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) shall be levied and collected according to the tax liability determined by the County of Placer or its designee, through the application of this Rate and Method of Apportionment of Special Tax. All of the property in the CFD, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless otherwise provided for the annexed property.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the expenses of the County in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, costs related to annexing property into the CFD, and all other costs and expenses of the County in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the County to administer the Special Tax according to the Rate and Method.

"Assessor's Parcel" or "Parcel" means a lot or parcel with an assigned County Assessor's Parcel number shown on a County Assessor's Parcel map.

"Authorized Services" means the public services authorized to be financed, in whole or in part, by the Special Taxes in the CFD.

"CFD" or "CFD No. 2012-1" means the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services).

"County" means the County of Placer.

"Developed Property" means, in any Fiscal Year, all Parcels of Taxable Property for which a certificate of occupancy for new construction or expansion of a vertical structure was issued by the County prior to June 30 of the preceding Fiscal Year. In the absence of a certificate of occupancy,

any Parcel of Taxable Property shall be classified as Developed Property if a structure on the Parcel has been occupied prior to June 30 of the preceding Fiscal Year.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maximum Special Tax” means the greatest amount of Special Tax that can be levied in any Fiscal Year according to this Rate and Method.

“Public Property” means any Parcel of Taxable Property that is owned by or irrevocably offered for dedication to the federal government, State of California, County, or other local governments or public agencies.

“Rate and Method” means this Rate and Method of Apportionment of Special Tax.

“Special Tax” means any tax levied in any Fiscal Year pursuant to the Rate and Method to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

“Square Footage,” or **“Square Foot”** means the floor area square footage reflected on the original building permit issued for construction of a building and any square footage subsequently added to a building after issuance of a permit for expansion or renovation.

“Taxable Property” means all the Assessor’s Parcels within the boundaries of CFD No. 2012-1 which are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2012-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel number for all Parcels of Taxable Property in the CFD. The Administrator shall also determine (i) whether each Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) for Developed Property, the Acreage of each Parcel and the amount of Square Footage built on each Parcel, (iii) for Undeveloped Property, the Acreage of each Parcel, and (iv) the Special Tax Requirement for the then current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into

the then current tax roll, and (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

1. Developed Property

The Maximum Special Tax for Fiscal Year 2012-13 for all Parcels of Developed Property within CFD No. 2012-1 shall be the greater of (i) \$0.08 per Square Foot or (ii) \$757.00 per Acre. After a Parcel is classified as Developed Property, if, in any future Fiscal Year, the amount of Square Footage on the Parcel is increased, the Administrator shall determine the Maximum Special Tax by applying the greater of (i) or (ii) based on the increased Square Footage.

2. Undeveloped Property

The Maximum Special Tax for Fiscal Year 2012-13 for all Parcels of Undeveloped Property within CFD No. 2012-1 shall be \$151.00 per Acre.

3. Escalation of Maximum Special Tax

On July 1, 2013, and on each July 1 thereafter, the Maximum Special Taxes set forth above shall be escalated by the increase, if any, in the Local Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and levy the Special Tax on all Parcels of Taxable Property as follows:

Step 1: The Special Tax shall be levied proportionately on each Parcel of Developed Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement;

Step 2 : If additional revenue is needed after Step 1 in order to meet the Special Tax Requirement, the Special Tax shall be levied proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied, when combined with the amount levied pursuant to Step 1, is equal to the Special Tax Requirement.

The Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the County may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner, and may collect delinquent Special Taxes through other available methods.

E. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method, no Special Tax shall be levied on Parcels of Public Property for which a separate agreement or contract has been entered into with the County to pay the costs of Authorized Services.

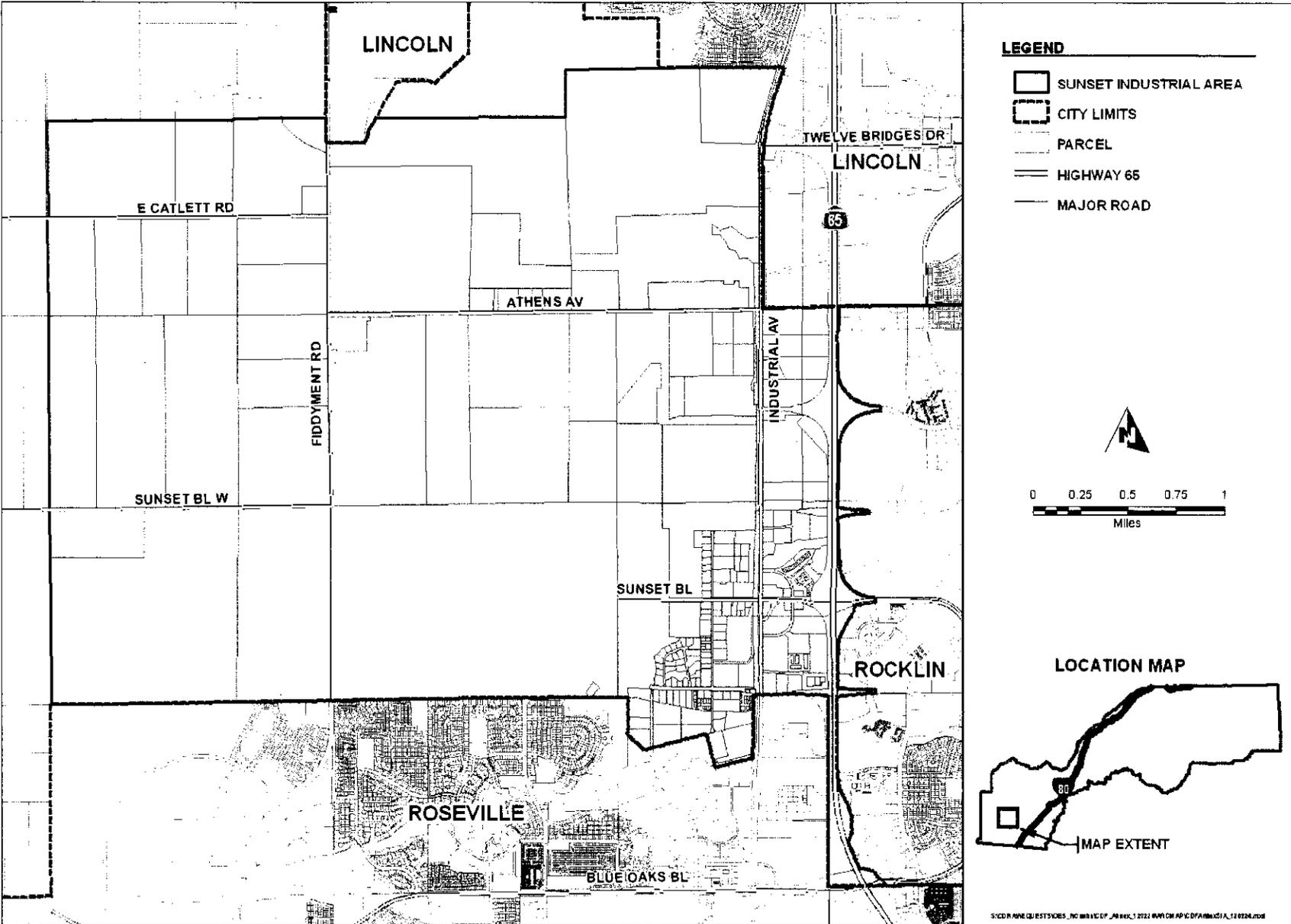
F. INTERPRETATION

The County may interpret, clarify, and revise this Rate and Method to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes.

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CFD 2012-1 Annexation Area

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CONSENT AND WAIVER OF NOTICE

**County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services**

THIS CONSENT AND WAIVER OF NOTICE is executed this 7th day of June, 2012, by MAGNUS REAL ESTATE GROUP, LLC, a California LLC ("OWNER").

WHEREAS, Owner is the owner of record in fee of the real property described on Exhibit A, attached hereto and incorporated herein by reference (the "Annexation Property"); and,

WHEREAS, on May 8, 2012, the Placer County Board of Supervisors adopted Resolution of Intention 2012-108 ("Resolution 2012-108") to form County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) (the "CFD") to fund fire and emergency medical services within the Sunset Industrial Area of Placer County, and being formed under the provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq.; and,

WHEREAS, the undersigned is authorized to represent the Owner and is its designated representative to give the consent and waiver contained herein with respect to annexation of Annexation Property into the CFD.

WHEREAS, Resolution 2012-108 incorporated as Exhibit A the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area) Rate and Method of Apportionment of Special Tax (the "Rate and Method") and as Exhibit B the CFD Annexation Area (the "Annexation Area").

WHEREAS, the Rate and Method contains the Method of Levy and Collection of Special Tax.

WHEREAS, the Rate and Method states that the maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per square foot or (ii) \$757.00 per acre, and, further, that once a parcel has annexed into CFD No. 2012-1, but before occupancy, the maximum special tax on undeveloped property shall be \$151.00 per acre.

WHEREAS, the Rate and Method Study further states that on July 1, 2013, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers; and, that the CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

WHEREAS, the Annexation Area includes within its boundaries those properties eligible for annexation into the CFD.

NOW, THEREFORE:

1. The undersigned Owner requests and consents to the annexation of the Annexation Property into the CFD.
2. In accordance with the provisions of the Act, and specifically Sections 53326(a) and 53327(b) thereof allowing certain time and conduct requirements relative to a special landowner election to be waived with the unanimous consent of all the landowners to be included in a community facilities district, the undersigned Owner (i) expressly consents to the conduct of the special election at the earliest possible time relative to the annexation of the Annexation Property into the CFD and (ii) expressly waives any requirement to have the special election conducted within the time periods specified in Section 53326 of the Act or in the California Elections Code.
3. The undersigned Owner waives any requirement for the mailing of the ballot for the special election and expressly agrees that said election may be conducted by mailed or hand-delivered ballot to be returned to the designated election official, being the Clerk of the Placer County Board of Supervisors, and the undersigned requests that the results of said election be canvassed and reported to the Board of Supervisors at the same meeting of the Board of Supervisors as the public hearing on the annexation of the Annexation Property into the CFD or the next available meeting.
4. The undersigned Owner expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, as set forth in Section 53327 of the Act, and consents to not having such materials provided to the Owner in the ballot packet, and expressly waives any requirements as to the form of the ballot.
5. The undersigned Owner expressly waives all notice requirements relating to hearings and special elections, whether by posting, publishing or mailing, and whether such requirements are found in the California Elections Code, the California Government Code or other laws or procedures, including but limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.
6. The undersigned Owner hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the annexation of the Annexation Property into the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.
7. The undersigned Owner warrants and represents that it is the owner of record of the Annexation Property, and has full authority to execute this Consent and Waiver. This Consent and Waiver shall be binding upon Owner and Owner's successors-in-interest,

heirs, and assigns, and shall run with the Annexation Property and all separate legal parcels therefrom as may later be created .

OWNER:

MAGNUS REAL ESTATE GROUP, LLC, a California LLC

By: 
Print Name: Bruce Dierker
Title: Managing Member
Dated: June 7, 2012

Exhibit A

Legal Description of Magnus Real Estate Group, LLC Annexation Property

All that portion of Section 9, T 11, R6E, M.D.B.&M. located in Placer County California, more particularly described as follows:

Lots 16-19 as shown on that Plat filed in Book CC of maps at page 7, Official Records of Placer County.

ACKNOWLEDGEMENT

State of California)
) ss
County of Placer)

On 6/7/12, before me, Robin Vincenti, Notary Public, personally appeared Bruce Diettert who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Robin Vincenti

Signature of Notary

My Commission Number is #1931484.
My Commission Expires April 4, 2015.



OFFICIAL BALLOT

**County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services**

MAGNUS REAL ESTATE GROUP, LLC, a California LLC

Do you approve of the imposition of a special tax to be levied under the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq., to fund fire protection and emergency medical services on the following parcels in the amount described as follows:

The maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per square foot or (ii) \$757.00 per acre. Once a parcel has annexed into CFD No. 2012-1, but before occupancy, the maximum special tax on undeveloped property shall be \$151.00 per acre. On July 1, 2013, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

ASSESSOR PARCEL NUMBERS and LEGAL DESCRIPTION

APN's 495-020-005, 495-020-006, 495-020-007, and 495-020-008, as more fully described on attached Exhibit A

YES NO

The undersigned declares that he or she is the authorized representative of the owner of record of the above-described Parcels and is lawfully authorized to execute this ballot on behalf of said owner of record.

OWNER:

MAGNUS REAL ESTATE GROUP, LLC, a California LLC

By: 
Print Name: Bruce Djetbert
Title: Managing Member
Dated: June 7, 2012

Signature(s) must be notarized

Exhibit A

Legal Description of Magnus Real Estate Group, LLC Annexation Property

All that portion of Section 9, T 11, R6E, M.D.B.&M. located in Placer County California, more particularly described as follows:

Lots 16-19 as shown on that Plat filed in Book CC of maps at page 7, Official Records of Placer County.

ACKNOWLEDGEMENT

State of California)
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County of Placer)

On 6/7/12, before me, Robin Vincenti, Notary Public, personally appeared Bruce Diettert who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Robin Vincenti

Signature of Notary

**My Commission Number is #1931484.
My Commission Expires April 4, 2015.**

